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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,457	04/14/2004	Chih-Ping Liu	55600-8014.US02	8343

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EXAMINER	
DANG, IAN D	

ART UNIT	PAPER NUMBER
1647	

MAIL DATE	DELIVERY MODE
03/26/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/825,457	LIU ET AL.	
	Examiner	Art Unit	
	IAN DANG	1647	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) ☒ The period for reply expires *4* months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1,3 and 4*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Robert Landsman/
Primary Examiner, Art Unit 1647

Continuation of 11. does NOT place the application in condition for allowance because:

Applicants' response and arguments filed on 02/19/2008 have overcome the rejection of claims 1, 3, and 4 under 35 USC 112, First paragraph (new matter). The rejection of claims 1, 3, and 4 under 35 USC 112, First paragraph (new matter) has been withdrawn.

Applicant's response, arguments, and amendment made to claim 1 filed 02/19/2008 have been overcome the rejection of claims 1, 3, and 4 under 35 USC 112, First paragraph (Written Description). The references provided by Applicant in Exhibits 1 and 2 disclose that regions required for antiviral activity are known (see page 137 of Pontzer et al.) and conserved regions for interferon tau (see Radhakrishnan et al., paragraph bridging the columns of page 155, especially right column). The rejections of claims 1, 3, and 4 under 35 USC 112, First paragraph (Written Description) has been withdrawn.

The rejection of claims 1, 3, and 4 under USC 112, First paragraph (Enablement) is maintained. Applicant's response and amendment made to claim 1 filed 02/19/2008 have been considered but are not found persuasive regarding the rejections of claims 1, 3, and 4. Applicants are not enabled for a method for treating a patient with multiple sclerosis by reducing IFN-gamma blood levels in a subject comprising orally administering an IFN-tau having greater than about 90% sequence identity to SEQ ID NO:2 at a dosage of between 6 x108 - 5x1012 units to decrease the subject's IFN-tau blood level relative to the IFN-gamma blood level in the absence of IFN-tau administration because Applicants have not provided any guidance on how IFN-tau acts in patients and whether the regions of IFN-tau responsible for antiviral activity would be required or responsible for decreasing IFN-gamma blood levels for the treatment of multiple sclerosis. While the the references provided by Applicant in Exhibits 1 and 2 disclose that regions of IFN-tau required for antiviral activity (see page 137 of Pontzer et al.) and that conserved regions of IFN-tau are known (see Radhakrishnan et al., paragraph bridging the columns of page 155, especially right column), Applicants have not provided any correlation between the antiviral and conserved regions of IFN-tau and their activities in reducing IFN-gamma blood levels in patient for the treatment of MS. If Applicants can provide evidence that the antiviral and conserved regions of IFN-tau disclosed in the references are responsible for the reduction in IFN-gamma blood levels in MS patients, Applicant would be enabled for the claimed method.